

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3404

IN THE MATTER OF:

Served September 13, 1989

Application of BILL APPELL Trading) Case No. AP-89-17
as PERSONAL PACE TOURS to Amend)
Certificate No. 130)

By application filed April 5, 1989, Bill Appell trading as Personal Pace Tours 1/ (Bill Appell or applicant) seeks to amend his WMATC Certificate No. 130. Applicant seeks to transport passengers in charter and special operations between points in the Metropolitan District, restricted to sightseeing tours, and further restricted against originating tours at the National Mall, The Ellipse, and the Days Inn-Capital Centre, Capitol Heights, MD. 2/

WMATC Certificate No. 130 authorizes the following transportation:

IRREGULAR ROUTES:

SPECIAL OPERATIONS, transporting passengers, between points in the Metropolitan District. Restricted to lectured, round-trip sightseeing tours;

RESTRICTED against originating such tours at the National Mall, The Ellipse, and the Days Inn-Capital Centre, Capitol Heights, Md.;

AND FURTHER RESTRICTED to the transportation of passengers in vehicles with a manufacturer's designed seating capacity of 15 passengers or less including the driver.

1/ The application was filed by Bill Appell trading as "Tech Tours Washington," however, Certificate No. 130 is issued to Bill Appell trading as Personal Pace Tours. Applicant filed a motion, which was granted at hearing, requesting that the name "Tech Tours Washington" be added to Bill Appell's trade name.

2/ To the extent that this application could be interpreted to include transportation solely within the Commonwealth of Virginia the application was dismissed pursuant to the Compact, Title II, Article XII, Section 1(b). See Order No. 3327, served May 5, 1989.

A public hearing was held on June 22, 1989, pursuant to Order No. 3327, served May 5, 1989, and incorporated herein by reference. Applicant testified on his own behalf and presented three public witnesses. No protests were entered.

SUMMARY OF THE EVIDENCE

Bill Appell operates as a sole proprietor. He has experience working as a taxicab driver and a licensed tour guide. Bill Appell has conducted his own sightseeing business since 1986. The proposed operations would be conducted in two vehicles, one 14-passenger van and one 22-passenger minibus. Bill Appell expects to acquire larger vehicles as the proposed operations are established. Applicant's vehicles would be equipped with a fire extinguisher and a backup alarm. The vehicles would undergo a daily inspection. The vehicles are currently under warranty, and maintenance is handled by the manufacturer.

Applicant proposes to offer three tours: Tour I ("Morning Tour") would be four hours and would include stops at the White House, Lincoln Memorial, Arlington National Cemetery, and Vietnam Veterans Memorial. An observation tour of the Jefferson Memorial, Bureau of Engraving, Smithsonian, and other points of interest would also be included. The proposed fare is \$23 for adults and \$12 for children under twelve. Tour II ("Riding Tour") would be one hour and would pass the White House, Washington Monument, Lincoln Memorial, Vietnam Veterans Memorial, Jefferson Memorial, Smithsonian, and metropolitan area government offices; \$11 for adults and \$8 for children would be charged. Tour III ("Night Tour") would be three hours and would include stops at the Library of Congress (or the Jefferson Memorial if the Library of Congress is closed), Kennedy Center, Iwo Jima Memorial, Vietnam Veterans Memorial, and Lincoln Memorial; the charge would be \$16 for adults and \$8 for children. Applicant proposes to charge \$55 an hour with a four-hour minimum for charter operations, with a 20 percent fee if requested service is cancelled within 10 days of service.

Bill Appell would supplement his sightseeing tours by using specially-produced audio and visual equipment including a laser disk player capable of housing 36,000 still frames which can be accessed in less than one second. The vehicles also would be equipped with TV monitors. The video presentation, accompanied by lecture, would provide historical notes to the attractions being seen. In addition to the video presentation, applicant plans to provide each passenger with a portable cassette player and headphones. Applicant has used both audio and visual aids in the past with favorable results. By making use of a public address system and a four-track cassette player, applicant would offer tours in five languages -- English, German, French, Spanish, and Japanese. Each seat in the minibus will be equipped with headphones and a switch that would enable the patron to select the desired language.

If the application is granted, applicant plans to hire an experienced driver who is a licensed tour guide with a good driving record. Applicant will have a driver training program.

Operations would be conducted seven days a week. Schedule permitting, charter operations would be conducted in one vehicle and special operations in another. Advanced reservations would be required. Applicant submitted a statement of net worth as of June 1, 1989, which lists \$91,764 in total assets (\$4,300 representing cash on hand) and \$17,521 in total liabilities (\$12,205 representing notes payable on revenue equipment). A projected operating statement for the 12 months ending June 1990, includes WMATC operating income for the proposed operations of \$71,994 with total operating expenses of \$30,703 yielding net income of \$41,291. Applicant is familiar with the United States Department of Transportation safety regulations and abides by them. Applicant is also in compliance with the Compact and Commission rules and regulations and plans continued compliance.

The first witness to testify in support of the application was Mr. Ben Gachi. Mr. Gachi works as a concierge for the Hay Adams Hotel in Washington, DC. His duties include making recommendations for sightseeing services to hotel guests. The witness receives requests for sightseeing services, averaging 16 individual requests a month. Charter service is requested about five times a month, with groups ranging in size from seven to fifteen. While a group of this size could be transported in a 14-passenger van, it has been the witness' experience that groups prefer larger vehicles for greater comfort and space. Mr. Gachi has used applicant's services and has been pleased.

Mr. Noelle Cibula, concierge at the J.W. Marriott Hotel in Washington, DC, testified in support of the application. The witness estimates that he receives as many as 150 requests for per capita sightseeing monthly, with up to 10 requests a month for charter sightseeing services. Mr. Cibula has used Mr. Appell's services and testified that applicant's operations have received the highest ratings from hotel guests. Since the tour is so popular, the witness generally likes to make the applicant's tour his number one recommendation, but due to Bill Appell's current vehicle size limitation Mr. Cibula has had to make referrals to other sightseeing services. He therefore supports a need for applicant's service in larger vehicles.

The last witness to testify in support of the application was Mr. Robert Pate. Mr. Pate is the chief concierge at the Radison Park Terrace in Washington, DC. He has referred applicant's service to hotel guests and has received positive comments about the quality of those operations. The witness testified that many of the hotel guests are members of small groups ranging in size from 12 to 22 that require charter sightseeing services. Hotel guests seeking per capita sightseeing arrangements average up to 25 a day; charter group requests average six a week.

DISCUSSION AND CONCLUSIONS

In determining whether to grant or expand a certificate of public convenience and necessity, we look to Title II, Article XII, Section 4(b) of the Compact which requires that an applicant prove that he is fit, willing, and able to perform the proposed transportation properly and to conform to the provisions of the Compact and the Commission's rules, regulations, and requirements thereunder. Section 4(b) further requires that the applicant prove the proposed service is required by the public convenience and necessity.

Based on a review of the record we find applicant capable of providing the proposed service and willing to conform to the Compact and Commission rules and regulations. Bill Appell has held operating authority from this Commission for over two years. He is an experienced driver and sightseeing lecturer. His tours, which are supported by specially-produced audio and video aids, have been well received by Washington area tourists. Applicant would use two vehicles in the proposed operations and plans to acquire a coach-sized vehicle in the future. Financial data indicate adequate financing to sustain the proposed operations.

The Commission has relied on the criteria set forth in Pan-American Bus Lines Operations (1 MCC 190, 203 [1936]) and its progeny to determine whether an applicant has satisfied his burden of proof that the public convenience and necessity require the proposed service. Three witnesses testified in support of expanded operations. They expressed a need for the proposed charter and special operations conducted in a larger vehicle. The witnesses (all hotel concierges) have referred the sightseeing services of Bill Appell to hotel guests and have found his operations to be satisfactory.

Based upon the testimony of the witnesses, the application filed by Bill Appell, and the documentary evidence submitted in this matter, we find that applicant has met his burden of proof that the proposed service will support a useful public purpose for which there is a demonstrated need. No protests were filed. We find that the proposed service will not endanger or impair the operations of existing carriers.

THEREFORE, IT IS ORDERED:

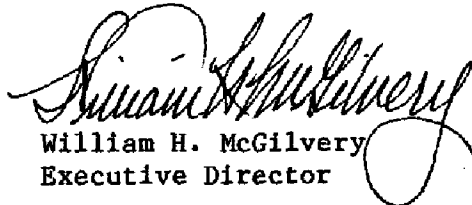
1. That Bill Appell trading as Personal Pace Tours/Tech Tours Washington is hereby conditionally granted authority, contingent upon timely compliance with the terms of this order, to transport passengers in charter and special operations between points in the Metropolitan District, restricted to round-trip sightseeing tours, further restricted against originating tours at the National Mall, The Ellipse, and the Days Inn-Capital Centre, Capitol Heights, MD, and further restricted against transportation between points located solely within the Commonwealth of Virginia.

2. That Bill Appell trading as Personal Pace Tours/Tech Tours Washington is hereby directed to file with the Commission the following: (a) three copies of his WMATC Tariff No. 3; (b) an equipment list specifying make, model, serial number, vehicle identification number, and license plate number for each vehicle to be used in WMATC operations; (c) a certificate of insurance in accordance with Commission Regulation No. 62; and (d) an affidavit of identification of equipment in accordance with Commission Regulation No. 67.

3. That unless Bill Appell trading as Personal Pace Tours/Tech Tours Washington complies with the requirements of the preceding paragraph within 30 days from the service date of this order, or such additional time as the Commission may direct or allow, the grant of authority contained herein shall be void, and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

4. That upon timely compliance with the requirements of this order Bill Appell trading as Personal Pace Tours/Tech Tours Washington will be issued a revised Certificate of Public Convenience and Necessity No. 130 in the form contained in the Appendix to this order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:


William H. McGilvery
Executive Director

NO. 130

BILL APPELL
Trading as PERSONAL PACE TOURS/TECH TOURS WASHINGTON

By Order Nos. 2948 and 3404 of the Washington Metropolitan Area Transit Commission issued December 12, 1986; and September 13, 1989;

AFTER DUE INVESTIGATION, it appearing that the above-named carrier is entitled to receive authority from this Commission to engage in the transportation of passengers within the Washington Metropolitan Area Transit District as a carrier, for the reasons and subject to the limitations set forth in Order Nos. 2948 and 3404;

THEREFORE, IT IS ORDERED that the said carrier is hereby granted this certificate of public convenience and necessity as evidence of the authority of the holder thereof to engage in transportation as a carrier by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privilege herein granted to the said carrier.

IT IS FURTHER ORDERED that the transportation service to be performed by the said carrier shall be as specified below:

PART A

IRREGULAR ROUTES:

SPECIAL OPERATIONS, transporting passengers between points in the Metropolitan District.

PART B

IRREGULAR ROUTES:

CHARTER OPERATIONS, transporting passengers between points in the Metropolitan District.

RESTRICTED in PARTS A and B above (1) to round-trip sightseeing tours, (2) against originating such tours at the National Mall, The Ellipse, and the Days Inn-Capital Centre, Capitol Heights, MD, and (3) against transportation solely within the Commonwealth of Virginia.

AND IT IS FURTHER ORDERED and made a condition that the holder thereof shall render reasonable, continuous, and adequate service to the public in pursuance of the authority granted herein, and that failure to do so shall constitute sufficient grounds for suspension, change, or revocation of the certificate.